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REMARKS

Claims 1-5, 7, 8, 10-15 and 17-23 remain pending in the present application. Claims 1, 14 and 20 have been amended. Claims 24-26 have been added. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

Claims 1-5, 7, 8, 10, 12-15 and 17-23 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Publication No. 2003/0097167 to Friedman ("Friedman").

Amended claim 1 recites a medical apparatus comprising "a flexible probe for accessing a patient's esophagus via the mouth, the probe, when in an operative position, extending from a proximal end which remains outside the patient to a distal end within the esophagus; an echocardiography transducer coupled to the distal end of the probe so that, when the probe is in the operative position, the echocardiography transducer is at a predetermined location within the esophagus relative to the heart to perform a transesophageal echocardiography procedure; and a flexible sheath sized to be received one of permanently and removably over the probe, *the sheath including a non-annular electrode so that the electrode, when placed in an operative position, contacts the esophagus to deliver a cardioversion current to the heart.*"

The Friedman device, on the other hand, discloses an esophageal probe for transesophageal cardiac stimulation wherein a silicone sheet subassembly housing a series of electrical contacts and conductors is wrapped around a distal end of a probe. Electrode rings are then clamped over the probe and electrical stimulation is provided via the electrical contacts. (See Friedman, p. 3, ¶ [0032]). It is submitted that the electrodes of the Friedman device are of an annular design, wherein the electrode rings circumferentially encompass the probe to which they are attached. Specifically, it is noted that the annular electrode disclosed by Friedman substantially occupies the 360 degrees of annular space surrounding the probe. (See Friedman, p. 3, ¶ [0032]; Fig. 1). The non-annular electrode disclosed in claim 1, on the other hand, has a

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length extending a short distance along the probe, as is best shown in the embodiment of Fig. 3b. It is expressly noted that the non-annular electrode noted in claim 1 are structurally dissimilar from the Friedman electrodes and accordingly, the method employed in securing the electrode to the probe is also dissimilar from the Friedman electrodes.

It is therefore submitted that Friedman fails to teach or suggest "a flexible sheath sized to be received one of permanently and removably over the probe, the sheath including a non-annular electrode so that the electrode, when in an operative position, contacts the esophagus to deliver a cardioversion current to the heart", as recited in claim 1. Accordingly, it is submitted that claim 1 is allowable over Friedman. Because claims 2-5, 7-8, 10, and 12-13 depend from and, therefore, include the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Amended claim 14 recites a "flexible sheath including a non-annular electrode assembly". Thus, it is respectfully submitted that claim 14 is allowable for the same reason noted above in regard to claim 1 and the Examiner should withdraw 35 U.S.C. § 102(e) rejection of claim 14. Because claims 15 and 17-19 depend from and, therefore, include the limitations of claim 14, it is respectfully submitted that these claims are also allowable.

Amended claim 20 recites a method comprising a "sheath including at least one non-annular cardioversion electrode". Thus, it is respectfully submitted that this claims is also allowable for the same reason as noted above with regard to claims 1 and 14 and the Examiner should withdraw 35 U.S.C. § 102(e) rejection of claim 20. Because claims 21-23 depend from and, therefore, include the limitations of claim 20, it is respectfully submitted that these claims are also allowable.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Friedman. As discussed above, Friedman does not disclose or suggest "a sheath including a non-annular

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electrode,” as recited in claim 1, from which claim 11 depends. Accordingly, it is respectfully submitted that claim 11 is allowable as being dependent on an allowable base claim and that the Examiner should withdraw the 35 U.S.C. § 103(a) rejection of claim 11.

Furthermore, newly added claims 24-26 depend from, and therefore include all of the limitations of claim 1. It is respectfully submitted that these claims are allowable as being dependent on an allowable base claim. Furthermore, it is submitted that Friedman fails to teach or suggest the limitations disclosed in claims 24-26 and that claims 24-26 are allowable for at least this additional reason.

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CONCLUSION

In light of the foregoing, Applicant respectfully submits that all of the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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